

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ALICIA ROBINSON,

Plaintiff,

-vs-

DECISION and ORDER
No. 1:16-cv-00432-MJR-MAT

THE CITY OF BUFFALO, THE CITY OF
BUFFALO POLICE DEPARTMENT, DANIEL
DERENDA, COMMISSIONER OF THE CITY
OF BUFFALO POLICE DEPARTMENT,
BUFFALO POLICE NARCOTICS
LIEUTENANT PAUL DELANO, BUFFALO
POLICE NARCOTICS DETECTIVE PATRICK
O'ROURKE, Former BUFFALO POLICE
NARCOTICS OFFICER DETECTIVE RAY
KRUG, LIEUTENANT NORMAN G HARTMAN
OF THE INTERNAL AFFAIRS DIVISION
OF THE BUFFALO POLICE DEPARTMENT,
THE CITY OF LACKAWANNA, LIEUTENANT
AARON BRENNAN OF THE CITY OF
LACKAWANNA POLICE DEPARTMENT, THE
COUNTY OF ERIE, ERIE COUNTY
SHERIFF TIMOTHY HOWARD, and to
this point at least ONE OFFICER
JOHN DOE OF THE CITY OF THE
BUFFALO POLICE DEPARTMENT, and ONE
OFFICER JOHN DOE OF THE ERIE
COUNTY SHERIFF'S DEPARTMENT,

Defendants.

This matter comes before the Court following a Report and Recommendation (Dkt #59) filed on October 24, 2017, by the Honorable Michael J. Roemer, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72(b) and (c) of the Western District of New York. In his Report and Recommendation ("R&R"), Judge Roemer recommended that counseled

plaintiff Alicia Robinson's motion to proceed in forma pauperis (Dkt #55) on her appeal of this Court's Decision and Order entered May 12, 2017 (Dkt #45)¹ be denied, because any appeal of that Decision and Order would be frivolous and not taken in good faith, see 28 U.S.C. § 1915(a)(3).

The R&R was served electronically to both parties on October 24, 2017. The parties were given fourteen (14) days from the date of their receipt of the R&R to file objections to it, and were specifically informed that any objections were due by November 13, 2017. To date, no objections have been filed, and neither party has sought an extension of time in which to file objections.

When reviewing a magistrate judge's report and recommendation, a district court is required to "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made[,]" 28 U.S.C. § 636(b), and "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge[,]" id. Where no "specific written objection" is made to portions of the magistrate judge's report, the district court may adopt those portions, "as long as the factual and legal bases supporting the

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In the May 12, 2017, Decision and Order, this Court dismissed Plaintiff's complaint as to all of the City of Buffalo defendants and the Erie County defendants, leaving only the City of Lackawanna defendants. Plaintiff filed a stipulation of discontinuance as to the Lackawanna defendants on August 23, 2017 (Dkt #50), which was so ordered by the Court on August 25, 2017 (Dkt #51). The case was closed on August 29, 2017.

findings and conclusions set forth in those sections are not clearly erroneous or contrary to law." Eisenberg v. New England Motor Freight, Inc., 564 F. Supp.2d 224, 226 (S.D.N.Y. 2008) (citing Fed. R. Civ. P. 72(b); Thomas v. Arn, 474 U.S. 140, 149 (1985); other citation omitted). The district court is not required to review any portion of a magistrate judge's report that is not the subject of an objection. Eisenberg, 564 F. Supp.2d at 227 (citing Thomas, 474 U.S. at 149).

As noted above, no objections were made to any portion of the R&R. The Court has reviewed Judge Roemer's thorough and well-reasoned R&R, and finds that it is not clearly erroneous or contrary to law. The Court accordingly accepts all of the findings and recommendations therein.

Accordingly, it is hereby

ORDERED that the R&R (Dkt #59) is adopted in its entirety; and it is further

ORDERED that Plaintiff's motion to proceed in forma pauperis on appeal (Dkt #55) is denied.

IT IS SO ORDERED.

S/Michael A. Telesca

HONORABLE MICHAEL A. TELESKA
United States District Judge

DATED: November 14, 2017
Rochester, New York

